

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION**

IN RE: SONYIA HENRY

**4:00-bk-42374 E
CHAPTER 13**

KELLOGG VALLEY MOTOR SALES, INC.

PLAINTIFF

V.

AP NO.: 4:01-ap-4123

**DARREN BOWDIE d/b/a
BOWDIE'S AUTO BODY SHOP;
SONYIA HENRY, Debtor;
JOYCE BRADLEY BABIN, Trustee**

DEFENDANT

ORDER GRANTING MOTION FOR PARTIAL SUMMARY JUDGMENT

Plaintiff's motion for partial summary judgment pursuant to Federal Rule of Bankruptcy Procedure 7056 and Defendant's response are before the Court. No application has been made for a hearing in this matter.

The parties do not dispute the facts stated herein. Kellogg Valley Motor Sales, Inc. ("**Kellogg**") has a properly perfected security interest in a 1993 Jeep Cherokee, VIN 1J4FT6884PL568006, belonging to the Debtor. Kellogg retained the security interest when it sold the vehicle to Debtor and financed the sale. Kellogg's lien on the vehicle is reflected on the vehicle's title. Debtor left the vehicle with Darren Bowdie d/b/a/ Bowdie's Auto Shop ("**Bowdie**") for repairs, and Bowdie claims a lien on the vehicle for repairs made. Kellogg moves for partial summary judgment on the issue of whether its lien takes priority over Bowdie's repairmen's lien. The Court finds that it does under Arkansas law. Specifically, Ark. Code Ann. § 18-45-202(b) (West 2003) provides that the repairmen's lien provided for under Arkansas law is "subject to the perfected lien of a financial institution or vendor of automobiles, . . . for any claim for balance of purchase money due thereon." *See also Bond v. Dudley*, 244 Ark. 568, 426 S.W.2d 780

EOD 1/17/2003 BY NJ

(1968); *Goff-McNair Motor Co., Inc. v. Phillips Motor Co., Inc.*, 226 Ark. 751, 294 S.W.2d 342 (1956); *Powell v. Pacific Finance Corp.*, 216 Ark. 884, 227 S.W.2d 965 (1950).¹ Because Kellogg financed the sale of the vehicle to Debtor, its lien for the balance of the amount owed is superior to Bowdie's repairmen's lien under Ark. Code Ann. § 18-45-202(b). Accordingly, the Court finds that Kellogg's vendor's lien has priority over Bowdie's repairmen's lien pursuant to Ark. Code Ann. § 18-45-202(b), and Kellogg's Motion for Partial Summary Judgment must be granted. It is hereby

ORDERED that Plaintiff's Motion for Partial Summary Judgment is **GRANTED**. It is further

ORDERED that a trial will be conducted on February 21, 2003, at 9:30 a.m. at the United States Bankruptcy Courthouse, 300 West Second Street, Room 320, Little Rock, Arkansas, to consider and act upon the First Amended Complaint filed by Kellogg Valley Motor Sales, Inc. on February 8, 2002.

IT IS SO ORDERED.



HONORABLE AUDREY R. EVANS
UNITED STATES BANKRUPTCY JUDGE

DATE: January 16, 2003

cc: Mr. M. Randy Rice, attorney for Debtor
Mr. Stephen B. Bennett, for Kellogg
Ms. DeLisa K. Blanton, for Bowdie
Ms. Joyce B. Babin, Chapter 13 Trustee
U.S. Trustee

¹These decisions were made prior to the 1999 amendments to Ark. Code Ann. § 18-45-202(b) which removed the requirement that a vendor retain title to a vehicle in order for its lien to be superior.